

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Mag. No. 11-cr-0471 (KSH)

vs. : Hon. Katharine S. Hayden

ROD PEREZ : ORDER

This matter having been opened to the Court on Motion to Dismiss Indictment With Prejudice (doc. 29) by defendant Rod Perez (Carl Herman, Esq. appearing), the United States, by Paul J. Fishman, United States Attorney for the District of New Jersey (David L. Foster and Rodney C. Villazor, Assistants United States Attorney) in opposition, for a dismissal with prejudice pursuant to Title 18, United States Code, Section 3161, and the Court having held a hearing thereon on December 15, 2011 and stated its findings on the record, the Court makes the following findings:

1. As set forth more fully in the Government's Memorandum and at the hearing, there have been more than 30 non-excludable days between the date of the initial appearance of defendant Perez and the date Indictment, 11-cr-0471 (KSH), was filed, and more than 70 non-excludable days between the date Indictment, 11-cr-0471 (KSH), was filed and a trial, thereby resulting in a violation of the Speedy Trial Act. Dismissal is mandatory.

2. Weighing the factors set forth in Title 18, United States Code, Section 3162(a), the Court finds that: (1) the

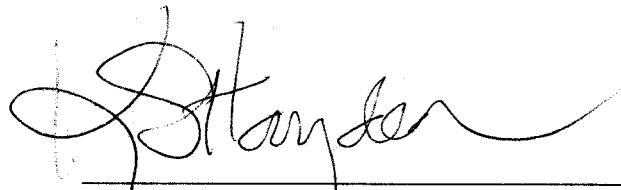
seriousness of the crimes charged against defendant Perez; (2) the lack of any bad faith or misconduct by the Government; and (3) the interests of the administration of justice and the minimal impact of reprosecution on the administration of the Speedy Trial Act, in the discretion of the Court, all weigh in favor of dismissal without prejudice.

3. Defendant Perez has not suffered any prejudice warranting dismissal with prejudice.

**IT IS, therefore, on this 15th day of December, 2011,**

ORDERED, pursuant to Title 18, United States Code, Section 3161, that defendant Perez's motion be GRANTED, IN PART, and DENIED, IN PART; and it is further

ORDERED, pursuant to Title 18, United States Code, Section 3161, that Indictment, 11-cr-00471 (KSH), be DISMISSED WITHOUT PREJUDICE.



HONORABLE KATHARINE S. HAYDEN  
United States District Judge